REMARKS

A first Office Action was mailed on July 15, 2004. Claims 1 – 12 are pending in the present application. Applicant amends claims 1 and 9 – 12, and adds new claim 13. No new matter is introduced. Support for the amendments may be found, for example, in Applicants' specification at page 11, lines 1 – 3, page 12, lines 9 – 15, page 14, line 20 though page 15, line 7 and page 16, line 8 through page 17, line 3.

OBJECTION TO CLAIMS

Claims 1 and 12 are objected to in regard to informalities. Applicants amend claims 1 and 12 to address the informalities, and respectfully request that the objection be withdrawn. Applicants also amend claims 10 and 11 to conform to the amendments made to claim 1

Applicants thank the Examiner for indicating that claim 9 is objected to as being dependent on rejected base claim 1, but would be allowable if rewritten to include all of the limitations of associated base claim 1 and intervening claims 3, 4 and 7. Applicants amend claim 9 accordingly, and respectfully request that the objection be withdrawn.

REJECTION UNDER 35 U.S.C. §§ 102, 103

Claims 1 – 3 and 10 – 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,948,069 to Kitai et al. Claims 4 - 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kitai view of U.S. Patent No. 6,631,122 to Arunachalam et al. Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Kitai view of Arunachalam and U.S. Patent Publication No. 2002/0161861 to

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Greuel. Applicants amend claims 1 and 10 to further clarify the nature of their invention, and respectfully traverse the rejections.

In amended independent claim 1, Applicants claim:

1. . A data transmission apparatus transmitting data received from a user terminal device through a plurality of networks to a destination, said user terminal device executing communication using an Internet protocol, said data transmission apparatus comprising:

a routing table storing information relating a destination address of the data and addresses of the plurality of networks;

an information table storing static and <u>dynamic information</u> about the plurality of networks, said dynamic information <u>including information provided from an external information source</u>; and

a selection unit selecting at least one of the plurality of networks, through which said data transmission apparatus transmits the data to the destination, based on said static and dynamic information.

(Emphasis added)

Kitai discloses a system and method for performing data communications between client and server computers in a communication network (see, e.g., abstract of Kitai). FIG. 1 of Kitail illustrates a conventional router having a routing table, a network interface information table and a QoS control table. The Examiner asserts that the routing table and network interface information table of Kitai's FIG 1 are equivalent to Applicants' routing table and information table, respectively. However, unlike Applicants' invention as claimed in claim 1, Kitai does not disclose or suggest that the network interface information table stores <u>dynamic</u> information about the plurality of networks, including information <u>provided from an external information source</u>, and that at least one of a plurality of networks is selected <u>based on the dynamic information</u>.

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From the Examiner's comments in regard to claim 4, it may be inferred that the Examiner would assert that these missing limitations are however taught by Arunachalam.

Arunachalam discloses a method for applying a wireless QoS agent in an all-IP network (see, e.g., abstract of Arunachalam). A QoS manager as disclosed by Arunachalam is able to monitor communications channel performance (e.g., bit error rates) to determine whether reassignment is needed to maintain a quoted QoS level (see, e.g., column 11, lines 39 – 61 of Arunachalam). However, unlike Applicants' claimed invention, Arunachalam's QoS manager does not monitor dynamic information <u>including information provided from an external information source</u>. Rather, Arunachalam's QoS manager monitors internal QoS measurements (e.g., bit error rates). Because Applicants' claimed device is able to select one or more networks based on externally-supplied dynamic information, Applicants' transmission apparatus can be substantially simplified as compared to the devices of Kitai and Arunachalam.

Accordingly, Applicants respectfully submit that amended independent claim 1 is not anticipated or made obvious by Kitai and Arunachalam, either alone or in combination. Applicants substantially re-apply these same arguments to submit that amended independent claim 10 is not anticipated or made obvious by Kitai and Arunachalam.

Because the filing date of Gruel (February 27, 2001) is later than the filing date of the present application (February 2, 2001), Applicants respectfully submit that Gruel fails to qualify as prior art to the present application. Accordingly, Applicants request that the rejection as to claim 8 be withdrawn.
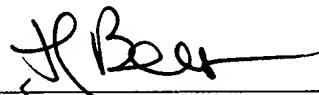
Applicants again respectfully submit that amended independent claims 1 and 10 are neither anticipated nor made obvious by Kitai and Arunachalam, either alone or in combination, and that amended independent claims 1 and 10 are therefore allowable. As claims 2 – 7 and 11 each depend from one of allowable claims 1 and 10, Applicant further submits that claims 2 – 7 and 11 are allowable for at least this reason.

CONCLUSION

An earnest effort has been made to be fully responsive to the Examiner's objections. In view of the above amendments and remarks, it is believed that claims 1 – 13, including independent claims 1 and 10 and the claims that depend therefrom, stand in condition for allowance. Passage of this case to allowance is earnestly solicited. However, if for any reason the Examiner should consider this application not to be in condition for allowance, he is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged on Deposit Account 50-1290.

Respectfully submitted,

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